



**Namachanja v Republic (Criminal Revision E324 of 2024)
[2025] KEHC 15838 (KLR) (28 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 15838 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUNGOMA
CRIMINAL REVISION E324 OF 2024
REA OUGO, J
OCTOBER 28, 2025**

BETWEEN

WILIAM NAMACHANJA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. This Ruling arises from an application dated 14/5/2024 seeking review of the death sentence imposed by the trial court, affirmed by the High Court and the Court of Appeal and later commuted to life imprisonment imposed upon the Applicant.
2. In my view, the applicant, having exhausted his appeal before the Court of Appeal, ought to have approached the Supreme Court, and in any event, the sentence no longer subsists, having been commuted. In *Wanyonyi & another v Republic (Miscellaneous Criminal Petition 66 of 2019 & E002 & E003 of 2024 (Consolidated))* [2025] KEHC 412 (KLR) (24 January 2025) (Ruling), the court held that:

“6. These proceedings are misconceived. Upon being convicted, the appellants exercised their rights of appeal, at the High Court and at the Court of Appeal. Their convictions for robbery with violence were affirmed, and the sentences were upheld. If they were unhappy with the outcome at the Court of Appeal, they should have gone on or proceeded to the Supreme Court, to challenge that outcome. They cannot possibly come back to the High Court, which is subordinate to the Court of Appeal, and which cannot review a decision of that higher court. The arguments that they now raise could have been properly raised at the Court of Appeal and determined.



7. Secondly, these petitions challenge the decisions of the trial court, the High Court, and the Court of Appeal, on the basis that the sentences imposed on them, of death, were unconstitutional. Those sentences are no longer hanging over their heads. They were commuted by the President in 2003. They are no longer available for execution, and the petitioners run no risk of being hanged to death in execution of those sentences.”
3. The Supreme Court in *Francis Karioko Muruatetu & another v Republic* [2017] eKLR recognised that the death penalty remains lawful for capital offences but declared unconstitutional only the mandatory aspect of such sentences. Subsequently, in *Francis Karioko Muruatetu & another v Republic; Katiba Institute & 5 others (Amicus Curiae)* [2021] eKLR, the Court clarified that the decision in *Muruatetu I* was confined to the offence of murder, and that the death sentence continues to be constitutionally valid for all other offences.
4. Consequently, this application is misconceived, improperly before the court and an abuse of the court process. The application is hereby struck out.

DATED, SIGNED AND DELIVERED AT BUNGOMA THIS 28TH DAY OF OCTOBER 2025

R.E. OUGO

JUDGE

In the presence of:

Job Wiliam Namachanja /Applicant

Miss Matere -Respondent Wilkister -C/A

